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13 *Attorneys for Plaintiff and on Behalf*
14 *of All Others Similarly Situated*

15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 MICHAEL RODMAN, On Behalf Of Himself
18 and All Others Similarly Situated,

19 Plaintiff,

20 v.

21 SAFEWAY INC.,

22 Defendant.

Case No. 3:11-CV-03003-JST (JCS)

**DECLARATION OF TIMOTHY N.
MATHEWS IN SUPPORT OF
PLAINTIFF'S ADMINISTRATIVE
MOTION RE SEALING OF
DOCUMENTS PURSUANT TO CIV.
L.R. 7-11 AND 79-5 [FOR PLAINTIFF'S
MOTION FOR DISCOVERY
SANCTIONS]**

Date: June 16, 2016

Time: 2:00 p.m.

Crtrm.: 9 – 19th Floor

Trial Date: October 5, 2015

Judge: Hon. Jon S. Tigar

Complaint filed: June 17, 2011

1 I, Timothy N. Mathews, declare as follows:

2 1. I am an attorney authorized to practice before this Court. I am a partner with the
3 law firm, CHIMICLES & TIKELLIS LLP, counsel for Plaintiff, Michael Rodman ("Plaintiff"), in
4 this action against Defendant Safeway, Inc. ("Defendant"). I have personal knowledge of the
5 matters stated herein and, if called upon, I could and would testify thereto.

6 2. I make this declaration in connection with Plaintiff's Administrative Motion
7 Regarding Sealing Of Documents Pursuant To Civil Local Rules 7-11 and 79-5 ("Administrative
8 Motion").

9 3. On August 6, 2012, the Court entered the Stipulated Protective Order ("Protective
10 Order") in this action (Dkt. No. 57). Under the Protective Order, the parties may designate certain
11 documents as "Confidential" and "Highly Confidential – Attorneys' Eyes Only," in order to
12 restrict their dissemination and disclosure. Under the Protective Order, any party who contends
13 that the information is entitled to protection must request an order sealing the information, and
14 Local Civil Rule 79-5(d) also requires such party to file with the Court a declaration establishing
15 that the designated information is, in fact, confidential and sealable within four (4) days after the
16 conditionally sealed document is lodged. In the event that a party fails to file a responsive
17 declaration and request to seal within four (4) days after the conditionally sealed document is
18 lodged with the Court, documents should be unsealed, filed, and made part of the public record.

19 4. Plaintiff's Motion for Discovery Sanctions ("Motion") includes information and/or
20 documents which Defendant and Plaintiff have designated "Confidential" or "Highly Confidential
21 – Attorneys' Eyes Only" pursuant to the Protective Order. No person or entity other than Safeway
22 and Plaintiff has designated as "Confidential" or "Highly Confidential – Attorneys' Eyes Only"
23 any information or documents contained in Plaintiff's Motion or exhibits thereto.

24 5. The documents proposed for sealing from the Declaration of Steven A. Schwartz in
25 Support of Plaintiff's Motion for Discovery Sanctions pursuant to Safeway's "Confidential" or
26 "Highly Confidential – Attorneys' Eyes Only" designation are as follows:
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- 1 • Ex. 2 (entire document) – This exhibit references material(s) that Defendant, Safeway
2 Inc. (“Safeway”) marked “Highly Confidential – Attorneys’ Eyes Only,” pursuant to
3 the Stipulated Protective Order, Dkt. No. 57.
- 4 • Ex. 3 (entire document) – This exhibit references material(s) that Defendant, Safeway
5 Inc. (“Safeway”) marked “Highly Confidential – Attorneys’ Eyes Only,” pursuant to
6 the Stipulated Protective Order, Dkt. No. 57.
- 7 • Ex. 4 (entire document) – This exhibit contains information that Safeway marked
8 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
9 Order, Dkt. No. 57.
- 10 • Ex. 5 (entire document) – This exhibit contains information that Safeway marked
11 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
12 Order, Dkt. No. 57.
- 13 • Ex. 7 (entire document) – This exhibit contains information that Safeway marked
14 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
15 Order, Dkt. No. 57.
- 16 • Ex. 8 (entire document) – This exhibit contains information that Safeway marked
17 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
18 Order, Dkt. No. 57.
- 19 • Ex. 9 (entire document) – This exhibit contains information that Safeway marked
20 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
21 Order, Dkt. No. 57.
- 22 • Ex. 10 (entire document) – This exhibit contains information that Safeway marked
23 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
24 Order, Dkt. No. 57.
- 25 • Ex. 11 (entire document) – This exhibit contains information that Safeway marked
26 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
27 Order, Dkt. No. 57.
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- 1 • Ex. 12 (entire document) – This exhibit contains information that Safeway marked
2 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
3 Order, Dkt. No. 57.
- 4 • Ex. 13 (entire document) – This exhibit contains information that Safeway marked
5 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
6 Order, Dkt. No. 57.
- 7 • Ex. 14 (entire document) – This exhibit contains information that Safeway marked
8 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
9 Order, Dkt. No. 57.
- 10 • Ex. 15 (entire document) – This exhibit contains information that Safeway marked
11 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
12 Order, Dkt. No. 57.
- 13 • Ex. 16 (entire document) – This exhibit contains information that Safeway marked
14 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
15 Order, Dkt. No. 57.
- 16 • Ex. 17 (entire document) – This exhibit contains information that Safeway marked
17 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
18 Order, Dkt. No. 57.
- 19 • Ex. 19 (entire document) – This exhibit contains information that Safeway marked
20 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
21 Order, Dkt. No. 57.
- 22 • Ex. 21 (entire document) – This exhibit references material(s) that Defendant, Safeway
23 Inc. (“Safeway”) marked “Highly Confidential – Attorneys’ Eyes Only,” pursuant to
24 the Stipulated Protective Order, Dkt. No. 57.
- 25 • Ex. 23 (entire document) – This exhibit contains information that Safeway marked
26 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
27 Order, Dkt. No. 57.

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- 1 • Ex. 24 (entire document) – This exhibit contains information that Safeway marked
2 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
3 Order, Dkt. No. 57.
- 4 • Ex. 27 (entire document) – This exhibit contains information that Safeway marked
5 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
6 Order, Dkt. No. 57.
- 7 • Ex. 28 (entire document) – This exhibit contains information that Safeway marked
8 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
9 Order, Dkt. No. 57.
- 10 • Ex. 29 (entire document) – This exhibit contains information that Safeway marked
11 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
12 Order, Dkt. No. 57.
- 13 • Ex. 30 (entire document) – This exhibit contains information that Safeway marked
14 “Highly Confidential – Attorneys’ Eyes Only,” pursuant to the Stipulated Protective
15 Order, Dkt. No. 57.
- 16 • Ex. 32 (entire document) – This exhibit contains detailed billing information/entries of
17 Plaintiff’s counsel that Plaintiff marked as “Highly Confidential-Attorneys’ Eyes
18 Only,” pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted
19 with counsel for Safeway, who have confirmed that Safeway does not oppose
20 Plaintiff’s request to seals his counsel’s time records. Such sealing is legally
21 appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No.
22 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in*
23 *camera* review of billing records and filing of the same under seal).
- 24 • Ex. 33 (entire document) – This exhibit contains detailed billing information/entries of
25 Plaintiff’s counsel that Plaintiff marked as “Highly Confidential-Attorneys’ Eyes
26 Only,” pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted
27 with counsel for Safeway, who have confirmed that Safeway does not oppose
28 Plaintiff’s request to seals his counsel’s time records. Such sealing is legally

appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in camera* review of billing records and filing of the same under seal).

- Ex. 34 (entire document) – This exhibit contains detailed billing information/entries of Plaintiff’s counsel that Plaintiff marked as “Highly Confidential-Attorneys’ Eyes Only,” pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted with counsel for Safeway, who have confirmed that Safeway does not oppose Plaintiff’s request to seals his counsel’s time records. Such sealing is legally appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in camera* review of billing records and filing of the same under seal).
- Ex. 35 (entire document) – This exhibit contains detailed billing information/entries of Plaintiff’s counsel that Plaintiff marked as “Highly Confidential-Attorneys’ Eyes Only,” pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted with counsel for Safeway, who have confirmed that Safeway does not oppose Plaintiff’s request to seals his counsel’s time records. Such sealing is legally appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in camera* review of billing records and filing of the same under seal).
- Ex. 36 (entire document) – This exhibit contains detailed billing information/entries of Plaintiff’s counsel that Plaintiff marked as “Highly Confidential-Attorneys’ Eyes Only,” pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted with counsel for Safeway, who have confirmed that Safeway does not oppose Plaintiff’s request to seals his counsel’s time records. Such sealing is legally appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in camera* review of billing records and filing of the same under seal).

6. The documents proposed for sealing from the Declaration of James C. Shah in Support of Plaintiff's Motion for Discovery Sanctions pursuant to Plaintiff's "Highly Confidential – Attorneys' Eyes Only" designation are as follows:

- Ex. 2 (entire document) – This exhibit contains detailed billing entries of Plaintiff's counsel that Plaintiff marked as "Highly Confidential-Attorneys' Eyes Only," pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted with counsel for Safeway, who have confirmed that Safeway does not oppose Plaintiff's request to seals his counsel's time records. Such sealing is legally appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in camera* review of billing records and filing of the same under seal).
- Ex. 3 (entire document) – This exhibit contains detailed billing entries of Plaintiff's counsel that Plaintiff marked as "Highly Confidential-Attorneys' Eyes Only," pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted with counsel for Safeway, who have confirmed that Safeway does not oppose Plaintiff's request to seals his counsel's time records. Such sealing is legally appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in camera* review of billing records and filing of the same under seal).
- Ex. 4 (entire document) – This exhibit contains detailed billing entries of Plaintiff's counsel that Plaintiff marked as "Highly Confidential-Attorneys' Eyes Only," pursuant to the Stipulated Protective Order, Dkt. No. 57. Plaintiff has consulted with counsel for Safeway, who have confirmed that Safeway does not oppose Plaintiff's request to seals his counsel's time records. Such sealing is legally appropriate and authorized. *See In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 1917, 2016 WL 1072097, at *3 (N.D. Cal. Mar. 17, 2016, J. Tigar) (approving of *in camera* review of billing records and filing of the same under seal).

1 I declare under penalty of perjury that the foregoing is true and correct. Executed this 6th
2 day of April 2016, in Haverford, PA.

3 /s/ Timothy N. Mathews
4 Timothy N. Mathews (*pro hac vice*)
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